

**CONTRACT #3**  
**RFS # 317.15-004**

**Department of Finance  
& Administration  
Division of Health Planning**

**VENDOR:**  
**Express Scripts, Inc.**



RECEIVED

APR 27 2006

FISCAL REVIEW

STATE OF TENNESSEE  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF HEALTH PLANNING  
312 Eighth Avenue North  
Suite 1200 William R. Snodgrass Building  
Nashville, Tennessee 37243-0287  
Phone (615) 253-2861 Fax (615) 532-6950

DAVE GOETZ  
COMMISSIONER

LAURIE LEE  
DIRECTOR

MEMORANDUM

**TO:** Dave Goetz, Commissioner, Finance and Administration  
Jim White, Executive Director, Fiscal Review Committee

**FROM:** Laurie Lee *LH*

**DATE:** April 27, 2006

**RE:** Express Scripts Amendment 5 to Contract FA-06-16458

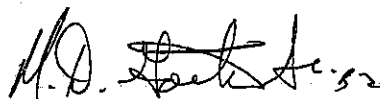
Please find attached a request for Non-Competitive Amendment to the Express Scripts contract. This Amendment does three things: 1) Extends the term of the contract from June 30, 2006 to December 31, 2006 for non-dual eligible TennCare disenrollees 2) Reduces the maximum liability to reflect what we expect to be the costs of the program and 3) Changes some of the program fees to accomplish the extension.

This Amendment will enable current program participants to continue their access to needed prescription drugs until a successor pharmaceutical assistance program is established through competitive bid by January 1, 2007. Using the existing program contract minimizes confusion to program participants and leverages the current program enrollment systems. The extension allows us to structure the new program most appropriately within the context of other insurance coverage and safety net proposals that are pending consideration by the General Assembly in this session. We will then be able to develop an RFP that best meets the needs of the populations we are trying to serve.

I have attached the Non-Competitive Amendment Request, the draft Amendment 5, Contract Summary Sheet and copies of the main contract and current amendments. I am happy to answer any questions regarding this request. Thank you for your consideration.

# REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED



Commissioner of Finance &amp; Administration

Date: 4/27/06

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS # 317.15.004-05

2) State Agency Name : Finance and Administration

## EXISTING CONTRACT INFORMATION

3) Service Caption : Pharmacy Benefit

4) Contractor : Express Scripts, Inc.

5) Contract # FA-06-16458-00

6) Contract Start Date : 7/01/05

7) Current Contract End Date IF all Options to Extend the Contract are Exercised : 6/30/068) Current Total Maximum Cost IF all Options to Extend the Contract are Exercised : \$54,364,000

## PROPOSED AMENDMENT INFORMATION

9) Proposed Amendment # 510) Proposed Amendment Effective Date : 07/01/06  
(attached explanation required if date is < 60 days after F&A receipt)11) Proposed Contract End Date IF all Options to Extend the Contract are Exercised : 12/31/200612) Proposed Total Maximum Cost IF all Options to Extend the Contract are Exercised : \$46,000,00013) Approval Criteria :  
(select one)

use of Non-Competitive Negotiation is in the best interest of the state



only one uniquely qualified service provider able to provide the service

14) Description of the Proposed Amendment Effects &amp; Any Additional Service :

This proposed Amendment extends end date of the program for TennCare disenrollees, changes program fees accordingly and reduces the maximum liability of the contract.

15) Explanation of Need for the Proposed Amendment :

The Amendment extends access to the current program through December 31, 2006. This enables TennCare disenrollees to access

the covered medications through the existing program until a successor pharmaceutical assistance program is established through competitive bid by January 1, 2007. The Amendment also reflects the projected total cost of the contract through December 31, 2006.

**16) Name & Address of Contractor's Current Principal Owner(s) :**  
(not required if proposed contractor is a state education institution)

Express Scripts, Inc.  
13900 Riverport Drive  
Maryland Heights, MO 63043

**17) Documentation of Office for Information Resources Endorsement :**  
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

**18) Documentation of Department of Personnel Endorsement :**  
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

**19) Documentation of State Architect Endorsement :**  
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

**20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :**

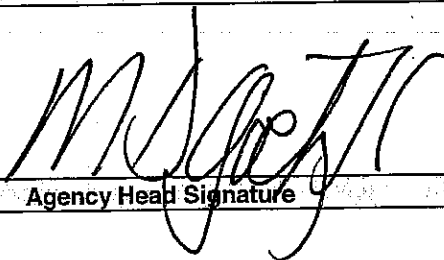
The Department determined that the most expeditious and cost-effective approach to provide this service was through the existing contract. The extension through the existing retail network leverages the State's investment in the current infrastructure of the program and keeps in place access to needed prescription drug while the program is rebid. The ability to use the current eligibility and communication system for this program necessitated the use of the current vendor, who has these systems already in place specifically for the disenrolled TennCare population.

**21) Justification for the Proposed Non-Competitive Amendment :**

Because this extends an existing program, the Department determined that a non-competitive Amendment was the best alternative. This option minimizes disruption and confusion to the population and maximizes the existing infrastructure for program implementation. The Department saves both money and time by using the current vendor for this additional service, which benefits the disenrollees and the State. A replacement program will be bid through competitive procurement for those low-income uninsured for whom medication is critical for daily functioning.

**REQUESTING AGENCY HEAD SIGNATURE & DATE :**

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR—signature by an authorized signatory will be accepted only in documented exigent circumstances)



4/26/06

Agency Head Signature

Date

# CONTRACT SUMMARY SHEET

8-8-05

<b>RFS #</b>		<b>Contract #</b>	
<b>317.15-004-05</b>		<b>FA-06-16458</b>	
<b>State Agency</b>		<b>State Agency Division</b>	
Finance and Administration		Health Planning	
		<b>Laurie Lee 3-2861</b>	
<b>Contractor Name</b>		<b>Contractor ID # (FEIN or SSN)</b>	
Express Scripts 13900 Riverport Drive Maryland Heights, MO 63043		<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 43-186-9712	
<b>Service Description</b>			
Extends contract end date so that current participants are not without pharmacy assistance while a new program is rebid; includes changes to program fees and reduction of the maximum liability.			
<b>Contract Begin Date</b>	<b>Contract End Date</b>	<b>SUBRECIPIENT or VENDOR?</b>	<b>CFDA #</b>
07/01/05	12/31/06	Vendor	
<b>Mark, if Statement is TRUE</b>			
<input checked="" type="checkbox"/> Contractor is on STARS as required		<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts as required	
<b>Allotment Code</b>	<b>Cost Center</b>	<b>Object Code</b>	<b>Fund</b>
317.15	500	084	11
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>
2006	\$34,500,000.00		
2007	\$11,500,000		
<b>TOTAL:</b>	<b>\$46,000,000</b>		
<b>— COMPLETE FOR AMENDMENTS ONLY —</b>		<b>State Agency Fiscal Contact &amp; Telephone #</b>	
<b>FY</b>	<b>Base Contract &amp; Prior Amendments</b>	<b>THIS Amendment ONLY</b>	Maureen Abbey 20 <sup>th</sup> Floor, Fennessee Tower, 312 8 <sup>th</sup> Ave. North Nashville, TN 37243 741-6070
2006	\$54,364,000.00	(19,864,000)	<b>State Agency Budget Officer Approval</b>
2007		11,500,000	
<b>TOTAL:</b>	<b>\$54,364,000.00</b>	<b>(\$8,364,000)</b>	<b>Funding Certification</b> (certification required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
<b>End Date:</b>	<b>06/30/06</b>	<b>12/31/06</b>	
<b>Contractor Ownership</b>			
<input type="checkbox"/> African American <input type="checkbox"/> Disabled <input type="checkbox"/> Hispanic <input type="checkbox"/> Small Business <input checked="" type="checkbox"/> NOT minority/disadvantaged <input type="checkbox"/> Asian <input type="checkbox"/> Female <input type="checkbox"/> Native American <input type="checkbox"/> OTHER minority/disadvantaged—			
<b>Contractor Selection Method</b>			
<input type="checkbox"/> RFP <input type="checkbox"/> Competitive Negotiation <input type="checkbox"/> Alternative Competitive Method <input type="checkbox"/> Non-Competitive Negotiation <input type="checkbox"/> Government <input type="checkbox"/> Other			
<b>Procurement Process Summary</b>			
The Department determined it in the best interest of the State and program participants to extend the existing contract while a new program is bid through the competitive procurement process. This process has already been initiated through an RFI, which has been completed and the RFP development process has begun. We anticipate this process to be completed in time for start of a new program by January 1, 2007. This amendment will ensure that current program participants will not have a gap in access to prescription drugs while the program is rebid.			

**AMENDMENT 5  
TO CONTRACT FA-06-16458-00**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, hereinafter referred to as the State, and Express Scripts, Inc., hereinafter referred to as the "Contractor", is hereby amended as follows:

1. Delete the following Sections.

**DRAFT**

Delete Section A.1.c in its entirety and insert the following in its place:

- A.1.c Claims adjudication services. The Contractor shall process and pay all claims for services delivered through December 31, 2006.

Delete Section B.1. in its entirety and insert the following in its place:

- B.1. Contract Term. This Contract shall be effective for the period commencing July 1, 2005 and ending on December 31, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

Delete Section C.1. in its entirety and insert the following in its place:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Forty-six Million Dollars (\$46,000,000); inclusive of payment for pharmaceuticals. The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

Delete Section A of Statement of Work #2 and replace it in its entirety with the following:

**A. Participants who are not Severely and Persistently Mentally III (SPMI) or Medicare-eligible**

- 1) Auto Enroll all Participants into the Rx Outreach Program via an electronic feed from the State
- 2) Preload Eligibility for Participants in Rx Outreach
- 3) Each patient will receive unlimited generics through RxOutreach at no charge to the individual patient through December 31, 2006
- 4) State will responsible for \$18.00 per prescription for qualified Participants
- 5) Prescriptions will only be dispensed a 90 day supply
- 6) Controlled medications will be dispensed according to Missouri Pharmacy Law

Delete Section C of Statement of Work #2 and replace it in its entirety with the following:

**C. SPMI Participants**

**DRAFT**

- 1) Auto Enroll all Participants into the Rx Outreach Program via an electronic feed from the State
- 2) Preload Eligibility for Participants in Rx Outreach
- 3) Each patient will receive unlimited generics through RxOutreach at no charge to the individual patient for through December 31, 2006
- 4) State will be responsible for \$18.00 per prescription for qualified Participants
- 5) Prescriptions will not be dispensed for more than a 90 day supply
- 6) Controlled medications will be dispensed according to Missouri Pharmacy Law

Delete Exhibit A of Statement of Work #3 in its entirety and insert the following in its place:

**EXHIBIT A TO STATEMENT OF WORK #3  
Express Access Discount Card  
Table 1: Retail Pharmacy Pricing**

	Express Access Cash Network
<b>Brand AWP Discount</b>	Lower of negotiated pharmacy rate or MAC
<b>Generic AWP Discount</b>	Lower of negotiated pharmacy rate or MAC
<b>Dispensing Fee/Rx</b>	\$3.50
<b>Administrative Fee/Rx</b>	\$1.25*
<b>Usual &amp; Customary</b>	U&C - \$1.00
<b>Sales Tax, Excise Tax or Other Governmental Surcharge</b>	As Applicable

\*The Parties acknowledge that Contractor retains a portion of the Dispensing Fee charged to Participants on claims approved at the Express Access contracted discounts. Actual discounts, dispensing fees and the amount of the Dispensing Fee retained by Express Scripts may vary by store. Contractor retains no portion of the Dispensing Fee on claims approved for Participants at the rate of the Usual & Customary Fee minus \$1.

**SPMI Assistance Program  
Table 2: Retail Pharmacy Pricing**

	Retail Network 50,000+ Pharmacies
<b>Brand Discount</b>	Pass through of the pharmacy reimbursement, which is the lower of: <ul style="list-style-type: none"> <li>• Pharmacy contracted rate estimated at AWP-14.9% + dispensing fee, or</li> <li>• U&amp;C price</li> </ul>

Generic Discount	Pass through of the pharmacy reimbursement, which is the lowest of: <ul style="list-style-type: none"> <li>• MAC (estimated average of AWP-62.5%) + dispensing fee;</li> <li>• Pharmacy contracted brand discount + dispensing fee; or</li> <li>• U&amp;C price</li> </ul>
Brand Dispensing Fee/Rx	Pharmacy contracted rate (estimated at \$2.00/Rx)
Generic Dispensing Fee/Rx	Pharmacy contracted rate (estimated at \$2.10/Rx)
Administrative Fee/Rx	\$1.25*
Specialty drugs through retail network	AWP-13% + \$2.75 dispensing fee
Rebate Sharing	Pass through 100%

# DRAFT

## Administrative Fees

PBM Services	Fee
♦ Customer Service for Participants	No additional fee
♦ Eligibility submission <ul style="list-style-type: none"> <li>• Electronic/on-line submission</li> <li>• FSA Feeds</li> <li>• Manual/hardcopy submission</li> </ul>	No additional fee No additional fee \$1.00/update (includes initial entry)
♦ Software Training for Access to Our On-Line System(s)	No additional fee
♦ Electronic Claims Processing	No additional fee
♦ Participant Submitted Paper Claims Processing	Not provided
♦ COB (Coordination of Benefits) <ul style="list-style-type: none"> <li>• Standard Process (reject for primary carrier)</li> <li>• Medicare Coordination (+65 population)</li> </ul>	No additional fee Not provided
♦ Program Setup	No additional charge
Participating Pharmacies	
♦ Pharmacy Audit Recoveries	20% of audit recoveries
♦ Pharmacy Help Desk	No additional fee
♦ Pharmacy Network Management	No additional fee
♦ Pharmacy Reimbursement	No additional fee
♦ Network Development Upon Request	No additional fee
Mail Services	
♦ Benefit Education (includes Mail Promotion Program)	No additional fee
♦ Prescription Delivery – standard	No additional fee
Reporting Services	
♦ Web-based Client Reporting – produced by State	No additional fee
♦ Web-based Client Reporting – produced by Contractor	\$100 per report
♦ Ad hoc desk top parametric reports	No additional fee
♦ Additional Reports <ul style="list-style-type: none"> <li>• Billing Reports (including claims paid tape)</li> <li>• Annual Strategic Account Program Report</li> </ul>	No additional fee No additional fee
♦ Programming for Custom Ad-Hoc Reporting (applicable only if IS programming is required)	\$150 per hour, with a minimum of \$500
♦ Claims detail extract file electronic (NCPDP format)	No additional fee (avail. upon request)



♦ Inquiry access to claims processing system	No additional fee; State to pay its own connection charges
<b>Formulary Support Services</b>	
♦ Annual Formulary Communications <ul style="list-style-type: none"> <li>Posted at <a href="http://www.express-scripts.com">www.express-scripts.com</a></li> <li>Mailed to Participant's homes</li> <li>Bulk shipped to State</li> </ul>	No additional charge Additional charge TBD No additional charge
<b>Web Site</b>	
♦ Digital Certificates <ul style="list-style-type: none"> <li>Up to 5 certificates</li> <li>More than 5 certificates</li> </ul>	No additional fee Up to \$150 for additional users
♦ Express-Scripts.com for Clients—access to reporting tools, eligibility update capability, contact directory, sales and marketing information, and benefit and enrollment support	No additional fee
♦ Express-Scripts.com for Participants—access to benefit, drug, health and wellness information; prescription ordering capability; and customer service	No additional fee
<b>Implementation Package and Participant Communications</b>	
♦ Implementation Support	No additional charge
Participant Packets: Standard Participant Materials or ID card packets, which contain the following: 2 standard ID cards & carriers, confidentiality and disclosure statement, and mail order form. <ul style="list-style-type: none"> <li>Mailed to State</li> <li>Mailed directly to Participants</li> <li>Replacement Cards</li> <li>Customized materials</li> </ul>	No additional charge No additional charge No Additional charge Priced upon request

Delete Exhibit C in Amendment 1 in its entirety and insert the following in its place:

**Exhibit C**  
**Pricing and Financial Disclosure**

**Fees**

**Communications**

Participant communications & ID cards	\$4.00 per participant
---------------------------------------	------------------------

**Rx Outreach at Retail**

Rx Outreach Claims	\$18.00 per claim (includes administrative fee)
--------------------	---

**Diabetic Program**

Covered Brand Medications	The lower of AWP-14.9% plus \$2.00 dispensing fee or U&C
Covered Generic Medications	The lower of: <ul style="list-style-type: none"> <li>AWP-14.9% plus \$2.00 dispensing fee</li> <li>or</li> <li>MAC (estimated average of AWP-65%) plus \$2.10 dispensing fee or</li> <li>U&amp;C</li> </ul>

Administrative fee for Covered Medications	\$1.25 per claim
Rebates	Pass through 100%

### Other Administrative Fees

BE/M Services	Fee
♦ Customer Service for Participants	No additional fee
♦ Eligibility submission <ul style="list-style-type: none"> <li>• Electronic/on-line submission</li> <li>• FSA Feeds</li> <li>• Manual/hardcopy submission</li> </ul>	No additional fee No additional fee \$100/update (includes initial entry)
♦ Software Training for Access to Our On-Line System(s)	No additional fee
♦ Electronic Claims Processing	No additional fee
♦ Participant Submitted Paper Claims Processing	Not provided
♦ COB (Coordination of Benefits) <ul style="list-style-type: none"> <li>• Standard Process (reject for primary carrier)</li> <li>• Medicare Coordination (+65 population)</li> </ul>	No additional fee Not provided
♦ Program Setup	No additional charge
Participating Pharmacies	
♦ Pharmacy Audit Recoveries	20% of audit recoveries
♦ Pharmacy Help Desk	No additional fee
♦ Pharmacy Network Management	No additional fee
♦ Pharmacy Reimbursement	No additional fee
♦ Network Development Upon Request	No additional fee
Mail Services	
♦ Benefit Education (includes Mail Promotion Program)	No additional fee
♦ Prescription Delivery – standard	No additional fee
Reporting Services	
♦ Web-based Client Reporting – produced by State	No additional fee
♦ Web-based Client Reporting – produced by Contractor	\$100 per report
♦ Ad hoc desk top parametric reports	No additional fee
♦ Additional Reports <ul style="list-style-type: none"> <li>• Billing Reports (including claims paid tape)</li> <li>• Annual Strategic Account Program Report</li> </ul>	No additional fee No additional fee
♦ Programming for Custom Ad-Hoc Reporting (applicable only if IS programming is required)	\$150 per hour, with a minimum of \$500
♦ Claims detail extract file electronic (NCPDP format)	No additional fee (avail. upon request)
♦ Inquiry access to claims processing system	No additional fee; State to pay its own connection charges
Formulary Support Services	
♦ Annual Formulary Communications <ul style="list-style-type: none"> <li>• Posted at <a href="http://www.express-scripts.com">www.express-scripts.com</a></li> <li>• Mailed to Participant's homes</li> <li>• Bulk shipped to State</li> </ul>	No additional charge Additional charge TBD No additional charge
Web Site	

♦ Digital Certificates <ul style="list-style-type: none"> <li>• Up to 5 certificates</li> <li>• More than 5 certificates</li> </ul>	No additional fee Up to \$150 for additional users
♦ Express-Scripts.com for Clients—access to reporting tools, eligibility update capability, contact directory, sales and marketing information, and benefit and enrollment support	No additional fee
♦ Express-Scripts.com for Participants—access to benefit, drug, health and wellness information; prescription ordering capability; and customer service	No additional fee
<b>Implementation Package and Participant Communications</b>	<b>Fee</b>
♦ Implementation Support	No additional charge
Participant Packets: Standard Participant Materials or ID-card packets, which contain the following: 2 standard ID cards & carriers, confidentiality and disclosure statement, and mail order form <ul style="list-style-type: none"> <li>• Customized &amp; mailed directly to Participants</li> <li>• Replacement Cards</li> </ul>	\$4.00 per participant No additional charge

### **FINANCIAL DISCLOSURE TO ESI PBM CLIENTS**

In addition to the administrative fees paid to Express Scripts by our clients, Express Scripts derives margin in one or more of the following ways. These other revenue sources have allowed Express Scripts to keep administrative fees to clients low. The specific terms of Express Scripts' contracts with clients will affect the relative importance of these sources of margin with respect to that client.

1. **Network Pharmacy Contracts.** – Express Scripts contracts with retail pharmacies to provide prescription drugs to members of health plans sponsored by clients. The rates paid to these pharmacies differ from network to network, and among pharmacies within a network. Express Scripts generally contracts with clients to be paid an ingredient cost for drugs dispensed in a retail network at a uniform rate that applies to all pharmacies in the network that the client has selected for its plan. Thus, Express Scripts may realize a positive or negative margin on any given prescription. In addition, the payment terms under our client contracts may result in our receiving payments from our clients before we are required to pay network pharmacies. In such cases we retain the benefit of the use of these funds until we pay the network pharmacies.

2. **Mail Pharmacy Rates.** – ESI Mail Pharmacy Service, Inc. purchases prescription drugs to be dispensed from its mail service pharmacies either from a prescription drug wholesaler or directly from the manufacturer. Express Scripts' contracts with clients contain rates that we will be paid for dispensing these drugs that may be greater or less than Express Scripts' acquisition cost on any given prescription. In general, Express Scripts realizes an overall positive margin between acquisition cost and the amounts paid by clients.

3. **Manufacturer Rebates and Associated Administrative Fees.** – Express Scripts contracts with pharmaceutical manufacturers for retrospective discounts, or rebates, on the utilization of certain branded prescription products by applicable Members. Often, a portion of these rebates is paid to clients in connection with their pharmaceutical benefit management services, which payments are made in accordance with terms specified under the agreement with Express Scripts. Express Scripts typically receives rebates from pharmaceutical manufacturers before such payments are owed to clients, and Express Scripts retains the benefit of funds held until payment is made to a client. If a client has contracted to receive a portion of Express Scripts' rebates, the client has the right to audit the computation of payments owed to the client. Express Scripts maintains extensive systems and processes necessary for managing and administering its rebate programs. As partial consideration for these efforts, pharmaceutical manufacturers pay administrative fees to Express Scripts in addition to amounts attributable to rebates. Administrative fees retained by Express Scripts in connection with its rebate

programs do not exceed 3.5% of the AWP of the products for which rebates are payable to Express Scripts.

4. Formulary Support Programs. – Express Scripts does not receive manufacturer funding for product-specific PBM formulary support programs. Express Scripts will continue to provide formulary support programs to its clients but without targeted manufacturer funding for these services.

5. Other Manufacturer Revenues. – Certain subsidiaries of Express Scripts, including Phoenix Marketing Group, CuraScript Pharmacy, Inc. and Express Scripts Specialty Distribution Services, provide services to pharmaceutical manufacturers that are separate from the rebate and formulary support programs discussed above. Examples of these manufacturer services include product sample accountability and distribution, point-of-sale coupon program design and implementation, pharmaceutical care services, and specialty pharmaceutical product distribution. In addition, Express Scripts occasionally provides educational seminars regarding the PBM industry to representatives of certain pharmaceutical manufacturers and others. Compensation paid to Express Scripts or any of its subsidiaries for these types of services is based on the fair market value of the services rendered.

March, 2004

**THIS EXHIBIT REPRESENTS ESI'S CURRENT FINANCIAL POLICIES. THIS EXHIBIT MAY NOT BE REVISED OR MODIFIED. ESI MAY PERIODICALLY UPDATE ITS FINANCIAL DISCLOSURES TO REFLECT CHANGES IN ITS BUSINESS PROCESSES.**

Except as expressly provided herein, the terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between this Amendment and the Agreement, the terms of this Amendment shall prevail.

Choice of Law. This Amendment shall be construed by and governed in all respects according to the laws of the state indicated in the Agreement

***[remainder of page intentionally left blank]***

IN WITNESS WHEREOF,

EXPRESS SCRIPTS, INC:

---

David Lowenberg, Chief Operating Officer

DATE

STATE OF TENNESSEE, DEPARTMENT OF FINANCE AND ADMINISTRATION

**DRAFT**

---

M.D. Goetz, Jr. Commissioner

DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

---

M.D. Goetz Jr., Commissioner

DATE

COMPTROLLER OF THE TREASURY:

---

John G. Morgan, Comptroller of the Treasury

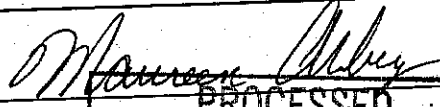
DATE

# C O N T R A C T S U M M A R Y H E E T

<b>RFS #</b> 317.15-004-05		<b>Contract #</b> FA-06-16458 - 01	
<b>State Agency</b> Finance and Administration		<b>State Agency Division</b> Health Planning Laurie Lee 3-2861	
<b>Contractor Name</b> Express Scripts 13900 Riverport Drive Maryland Heights, MO 63043		<b>Contractor ID # (FEIN or SSN)</b> <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 43-186-9712	

<b>Service Description</b> No change in service. Reduction of Maximum Liability only.			
<b>Contract Begin Date</b> 07/01/05	<b>Contract End Date</b> 06/30/06	<b>SUBRECIPIENT or VENDOR?</b> Vendor	<b>CFDA #</b>

<b>Mark, if Statement is TRUE</b> <input checked="" type="checkbox"/> Contractor is on STARS as required		<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts as required	
<b>Allotment Code</b> 317.15	<b>Cost Center</b> 500	<b>Object Code</b> 084	<b>Fund</b> 11
<b>Funding Grant Code</b>	<b>Funding Subgrant Code</b>		
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>
2006	\$64,364,000.00		
2006	(\$10,000,000)		
<b>TOTAL:</b>			<b>TOTAL Contract Amount</b> \$64,364,000.00 (\$10,000,000) \$54,364,000.00

— COMPLETE FOR AMENDMENTS ONLY —			<b>State Agency Fiscal Contact &amp; Telephone #</b>
<b>FY</b>	<b>Base Contract &amp; Prior Amendments</b>	<b>THIS Amendment ONLY</b>	Maureen Abbey 20 <sup>th</sup> Floor, Fennessee Tower, 312 8 <sup>th</sup> Ave. North Nashville, TN 37243 741-6070
2006	\$64,364,000.00	(10,000,000)	<b>State Agency Budget Officer Approval</b> 
<b>TOTAL:</b>	\$64,364,000.00	(\$10,000,000)	<b>Funding Certification</b> (certification required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred) <b>PROCESSED</b> <b>FEB 10 2006</b> <b>DIRECTOR OF ACCOUNTS</b>
<b>End Date:</b>	06/30/06	<del>06/30/06</del>	<b>RECEIVED</b> FEB - 3 4 12:22 OFFICE OF THE DIRECTOR OF ACCOUNTS

<b>Contractor Ownership</b>			
<input type="checkbox"/> African American	<input type="checkbox"/> Disabled	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input checked="" type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> OTHER minority/disadvantaged—			

<b>Contractor Selection Method</b>			
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method	
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Government	<input type="checkbox"/> Other	

**Procurement Process Summary**

This Amendment reduces the Maximum Liability of the current contract and does not alter or add to the services currently in place. Utilization projections for the remainder of the contract support reducing the maximum liability with no change in service. Therefore, no procurement is required.

**AMENDMENT 4  
TO CONTRACT FA-06-16458-00**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, hereinafter referred to as the State, and Express Scripts, Inc., hereinafter referred to as the "Contractor", is hereby amended, effective as of December 21, 2005 ("Effective Date"), as follows:

1. Delete Section C 1. and replace it in its entirety with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Fifty-four Million Three Hundred Sixty-four Thousand Dollars (\$54,364,000); inclusive of payment for pharmaceuticals. The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

*[remainder of page intentionally left blank]*

IN WITNESS WHEREOF:

EXPRESS SCRIPTS, INC:

*David A Lowenberg*

David Lowenberg, Chief Operating Officer

12/20/05

Date



STATE OF TENNESSEE, DEPARTMENT OF FINANCE AND ADMINISTRATION:

*M D Goetz Jr*

M. D. Goetz, Jr. Commissioner

1/6/06

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

*M D Goetz Jr*

M. D. Goetz Jr., Commissioner

FEB 01 2006

Date

COMPTROLLER OF THE TREASURY:

*N/A*

John G. Morgan, Comptroller of the Treasury

Date



# CONTRACT SUMMARY SHEET

8-8-05

<b>RFS #</b>	<b>Contract #</b>
317.15-004-05	FA-06-16458 - 03
<b>State Agency</b>	<b>State Agency Division</b>
Finance and Administration	Health Planning
<b>Contractor Name</b>	<b>Contractor ID # (FEIN or SSN)</b>
Express Scripts 13900 Riverport Drive Maryland Heights, MO 63043	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 43-186-9712

**Service Description**  
 Eligibility maintenance services to provide one-time reassignment of specified members from non-SPMI groups to SPMI groups. This will enable the provision of pharmacy services for those persons with severe and persistent mental illness who were not originally included in the first assignment of services. Amendment 3 details the work required in Statements of Work 2 and 6.

T:\Safety Net\Express Scripts\Amendment 3\contract summary sheet - Amdt 3.doc

<b>Contract Begin Date</b>	<b>Contract End Date</b>	<b>SUBRECIPIENT or VENDOR?</b>	<b>CFDA #</b>
07/01/05	06/30/06	Vendor	

Mark, if Statement is TRUE

<input checked="" type="checkbox"/> Contractor is on STARS as required				<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts as required	
<b>Allotment Code</b>	<b>Cost Center</b>	<b>Object Code</b>	<b>Fund</b>	<b>Funding Grant Code</b>	<b>Funding Subgrant Code</b>
317.15	500	084	11		
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2006	\$64,364,000.00				\$64,364,000.00
JAN 05 2006					
TO ACCOUNTS					\$64,364,000.00
<b>TOTAL:</b>					

COMPLETE FOR AMENDMENTS ONLY		
FY	Base Contract & Prior Amendments	THIS Amendment ONLY
2006	\$64,364,000.00	\$0.00
<b>TOTAL:</b>	<b>\$64,364,000.00</b>	<b>\$0.00</b>
<b>End Date:</b>	<b>06/30/06</b>	<b>06/30/06</b>

**State Agency Fiscal Contact & Telephone #**  
 Maureen Abbey  
 20<sup>th</sup> Floor, Fennessee Tower, 312 8<sup>th</sup> Ave. North  
 Nashville, TN 37243  
 741-6070

**State Agency Budget Officer Approval**  


**Funding Certification** (certification, required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)

## Contractor Ownership

<input type="checkbox"/> African American	<input type="checkbox"/> Disabled	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input checked="" type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	

## Contractor Selection Method

<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method
<input checked="" type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Government	<input type="checkbox"/> Other

## Procurement Process Summary

The Department determined that the requirements for program integration with existing services and need for quick implementation made Express Scripts the best alternative for providing these services. Specifically, the reassignment of existing TennCare disenrollees to existing programs for which the State has contracted with Express Scripts will enable the quick addition of needed mental health pharmacy services to those TennCare disenrollees who suffer from severe and persistent mental illness. The ability to implement both an eligibility and communication system to add this population to these existing programs necessitates the use of the current vendor, who has these systems already in place specifically for the disenrolled TennCare population.

JAN - 5 2006

DIRECTOR OF ACCOUNTS

# CONTRACT SUMMARY SHEET

8-8-05

<b>RFS #</b>	<b>Contract #</b>
317.15-002-05	FA-06-16458 -02
<b>State Agency</b>	<b>State Agency Division</b>
Finance and Administration	Health Planning
<b>Contractor Name</b>	<b>Contractor ID # (FEIN or SSN)</b>
Express Scripts 13900 Riverport Drive Maryland Heights, MO 63043	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 43-186-9712

**Service Description**  
 Eligibility maintenance services to provide one-time reassignment of specified members from non-SPMI groups to SPMI groups. This will enable the provision of pharmacy services for those persons with severe and persistent mental illness who were not originally included in the first assignment of services.

<b>Contract Begin Date</b>	<b>Contract End Date</b>	<b>SUBRECIPIENT or VENDOR?</b>	<b>CFDA #</b>
07/01/05	06/30/06	Vendor	

**Mark, if Statement is TRUE**

<input checked="" type="checkbox"/> Contractor is on STARS as required	<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts as required
--	--

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
317.15	500	084	11		

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006	\$64,364,000.00				\$64,364,000.00
<b>TOTAL:</b>					\$64,364,000.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Maureen Abbey 20 <sup>th</sup> Floor, Fennessee Tower, 312 8 <sup>th</sup> Ave. North Nashville, TN 37243 741-6070
2006	\$64,364,000.00	\$0.00	<b>State Agency Budget Officer Approval</b> 
			<b>Funding Certification</b> (certification required by T.C.A. §19-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)  
<b>TOTAL:</b>	\$64,364,000.00	\$0.00	
<b>End Date:</b>	06/30/06	06/30/06	<b>DIRECTOR OF ACCOUNTS</b> 

**Contractor Ownership**

<input type="checkbox"/> African American	<input type="checkbox"/> Disabled	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input checked="" type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	

**Contractor Selection Method**

<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method
------------------------------	--	---

RECEIVED  
 2005 DEC - 7 PM  
 OFFICE OF  
 MANAGEMENT  
 &  
 FINANCE

☒ Non-Competitive Negotiation

☐ Government

☐ Other

**Procurement Process Summary**

The Department determined that the requirements for program integration with existing services and need for quick implementation made Express Scripts the best alternative for providing these services. Specifically, the reassignment of existing TennCare disenrollees to existing programs for which the State has contracted with Express Scripts will enable the quick addition of needed mental health pharmacy services to those TennCare disenrollees who suffer from severe and persistent mental illness. The ability to implement both an eligibility and communication system to add this population to these existing programs necessitates the use of the current vendor, who has these systems already in place specifically for the disenrolled TennCare population.

# CONTRACT SUMMARY SHEET

8-8-05

<b>RFS #</b>	<b>Contract #</b>
317.15-500-05	FA-06-16458 - 01
<b>State Agency</b>	<b>State Agency Division</b>
Finance and Administration	Health Planning
<b>Contractor Name</b>	<b>Contractor ID # (FEIN or SSN)</b>
Express Scripts 13900 Riverport Drive Maryland Heights, MO 63043	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 43-186-9712

**Service Description**

This Amendment sets up a pharmacy network to provide eligible TennCare disenrollees with the generic drugs available on the Rx Outreach formulary through their retail pharmacy. In addition, insulin and diabetic supplies will be available through this same network. The Amendment also enables payment for lithium and Depakote on the formulary for pharmacy assistance for the severely and persistently mentally ill (SPMI).

<b>Contract Begin Date</b>	<b>Contract End Date</b>	<b>SUBRECIPIENT or VENDOR?</b>	<b>CFDA #</b>
07/01/05	06/30/06	Vendor	

**Mark, if Statement is TRUE**

<input checked="" type="checkbox"/> Contractor is on STARS as required	<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts as required
--	--

<b>Allotment Code</b>	<b>Cost Center</b>	<b>Object Code</b>	<b>Fund</b>	<b>Funding Grant Code</b>	<b>Funding Subgrant Code</b>
317.15	500	084	11		

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2005	\$64,364,000.00				\$64,364,000.00
<b>TOTAL:</b>					\$64,364,000.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Maureen Abbey 20 <sup>th</sup> Floor, Fennessee Tower, 312 8 <sup>th</sup> Ave. North Nashville, TN 37243 741-6070
2005	\$57,000,000.00	\$7,364,000.00	
2006		↓	State Agency Budget Officer Approval <i>Maureen Abbey</i>
<b>Funding Certification</b> (certification, required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)			<i>M. J. Goetz</i>
TOTAL:	\$57,000,000.00	\$7,364,000.00	
End Date:	06/30/06	06/30/06	

**Contractor Ownership**

<input type="checkbox"/> African American	<input type="checkbox"/> Disabled	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input checked="" type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	

**Contractor Selection Method**

<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method
------------------------------	--	---

☒ Non-Competitive Negotiation.

☐ Government

☐ Other

**Procurement Process Summary**

The Department determined that the requirements for program integration with existing services and need for quick implementation made Express Scripts the best alternative for providing these services. Specifically, the addition of the generic patient assistance, Rx Outreach, through a retail network requires collaboration with the existing Rx Outreach program, which is only offered by Express Scripts. The addition of the mood stabilizers will be added to the existing SPMI supplemental assistance card for the severely and persistently mentally ill, currently administered through the Express Scripts contract. In addition, the ability to implement both an eligibility and communication system for this program quickly necessitated the use of the current vendor, who has these systems already in place specifically for the disenrolled TennCare population.

# CONTRACT SUMMARY SHEET

RFS Number		Contract Number	FA-06-16458-02
State/Agency	Finance and Administration	Division	State Health Planning

Contractor		Contractor Identification Number	
Express Scripts 13900 Riverport Drive Maryland Heights, MO 63043		<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-	43-186-9712

Service Description
Express Scripts is a pharmacy benefit management company. The contract includes provision of pharmacy assistance coordination, call center assistance, distribution of pharmacy program information, support to local agencies and disenrollees and administration of a generic assistance program and funded assistance for the severely and persistently mentally ill.

Contract Begin Date	Contract End Date
7/01/05	6/30/05 → 6/30/06

Allotment Code	Cost Center	Object Code	Fund	Grant	Grant Code	Subgrant Code
317.15	500	084	11	<input type="checkbox"/> on STARS		

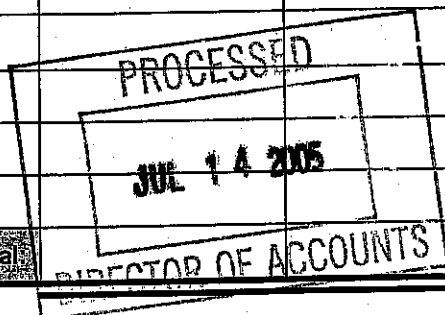
FY	State Funds	Federal Funds	Interdepartmental Funds	Other Funding	Total Contract Amount (including ALL amendments)
2006	\$57,000,000				\$57,000,000
Total	\$57,000,000				\$57,000,000

GFDA#	Check the box ONLY if the answer is YES
-------	---

State Fiscal Contact	Is the Contractor a SUBRECIPIENT? (per OMB A-133)
Name: Maureen Abbey Address: 20 <sup>th</sup> Floor, Tennessee Tower, 312 8 <sup>th</sup> Ave. N Phone: Nashville, TN 37243 741-6070	Is the Contractor a VENDOR? (per OMB A-133)
	Is the Fiscal Year Funding STRICTLY LIMITED?

Procuring Agency Budget Officer Approval Signature	Is the Contractor on STARS?
<i>Maureen Abbey</i> 7/13/05	Is the Contractor's FORM W-9 ATTACHED? X
	Is the Contractor's Form W-9 Filled with Accounts?

COMPLETE FOR ALL AMENDMENTS (only)		Funding Certification
Base Contract & Prior Amendments	This Amendment ONLY	Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.
END DATE →		
FY:		
FY:		
FY:		
FY:		
FY:		
Total		



*M. D. Goetz, Jr.*

TBS